HIGH COURT OF UTTARANCHAL AT NAINITAL.

Judgment Reserved:

Writ Petition no. 1053 (M/S) 2006

Khavaza Mohammad Sayeed S/o late Sri Nawab Akhtar,
Resident of Mohalla Chediyakot, Quila,
Kasba Manglaur, Tehsil Roorkee,
District Haridwar. -- Petitioner.

Vs.

1. Additional District & Sessions Judge/,
   II Fast Track Court, Haridwar,
2. S.D.M., Roorkee/R.C. & E.O., Roorkee,
3. Dr. Aftab Alam S/o Allauddin,
   Resident of Mohalla Toli, Kasba Manglaur,
   Tehsil Roorkee, district Haridwar. -- Respondents.

Sri Manish Arora, learned counsel for the petitioner.
Learned Standing Counsel for the State/respondent nos. 1 &2,
Sri Sarvesh Agarwal, learned counsel for respondent no.3.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Manish Arora, learned counsel for the petitioner, Learned Standing Counsel for the State/respondent nos. 1 & 2 and Sri Sarvesh Agarwal, learned counsel for respondent no.3.

By the present writ petition, the petitioner has prayed for the following reliefs:-

a. Issue a writ, order or direction in the nature of certiorari quashing the impugned orders dated 02.08.2006, 24.02.2006, 22.07.2006, 26.04.2005 and 18.12.2000 passed by respondent no. 1 & 2 respectively (contained as annexure no. 8,9,4 & 11 to this writ petition),

b. Issue a writ, order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case,

c. Award the cost of the petition to the petitioner.

Brief facts, as narrated in the writ petition, are that the petitioner is the tenant in shop no. 627 situated in Mohalla Bandartol, Manglaur, Tehsil Roorkee, district Haridwar. An application u/s 16 (1) of Rent Control Act was moved by one Mohd. Aqram for allotment of the said shop. The Sub Divisional Magistrate, Roorkee, who is Prescribed Authority under the Rent Control and Eviction Act, vide its order dated 26.04.1999 declared vacancy of the shop is dispute and invited applications for allotment by 10.05.1999. The petitioner, alongwith others, moved application for allotment of the shop in question. The Prescribed Authority , vide order dated 18.12.2000 rejected the applications of the petitioner and other prospective allottees and allowed the application of respondent no. 3 for release of the shop in question.

Aggrieved with the order of Prescribed Authority dated 18.12.2000, the petitioner preferred Rent Control Revision no. 1 of 2001 before the District Judge, Haridwar, Earlier, since the petitioner was in possession of the shop in question, the Revisional Court granted stay in favour of the petitioner till the next date fixed, however on 24th February 2006, the revision was dismissed for want of prosecution.

The petitioner moved restoration applications, which is still pending before the Revisional Court at Haridwar.

After filing the present writ petition, this Court on 5th August 2006 has stayed eviction of the petitioner till 17th August 2006.

The petitioner has not mentioned when the date is fixed before the Court concerned for hearing of the restoration application moved by him.

In the circumstances, without entering into the merits of the case, I deem it fit and proper to direct the Addl. District & Sessions Judge/II Fast Track Court, Haridwar, district Haridwar, before whom the matter is pending, to take decision on the application of the petitioner moved for restoration of the Rent Control Revision no. 1 of 2001 which has been dismissed for want of prosecution on 24th February 2006, within a period of three weeks from the date of production of a certified copy of this order.

The petitioner shall submit copy of this order before the Court concerned within a week. Till the decision is taken by the Court below on the restoration application, the petitioner shall not be evicted from the shop in question.

With these directions, the writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

August 22,2006
NCM: